

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:98-CR-00037-F-3

UNITED STATES OF AMERICA)	
)	
v.)	<u>ORDER</u>
)	
KEISHA CARTER,)	
Defendant.)	

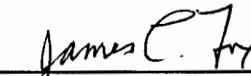
This matter is before the court on Keisha Carter's *ex parte* letter [DE-857], in which she states that she cannot file a § 2255 petition within twenty-eight days of receipt of the § 2255 form because she cannot obtain various court documents related to her case. Carter nevertheless requests the court vacate or modify her sentence and release her from prison. Letter Motion [DE-857] at 1.

As Carter has been advised, the appropriate way to challenge her sentence is by way of a § 2255 motion. Because Carter asserts that she is factually innocent of her conviction, she must file a § 2255 motion attacking the validity of her sentence before the court can consider her claim. *See* 28 U.S.C. § 2255 ("A prisoner in custody under sentence of a court . . . claiming the right to be released . . . may move the court which imposed the sentence to vacate, set aside or correct the sentence."). The court is not aware of "anything else" Carter can do to challenge the validity of her sentence. Carter is advised that if she cannot obtain her transcripts, she must file the § 2255 motion based on her personal knowledge of her case. Carter is also reminded that she must file the § 2255 motion on the correct form within twenty-eight days of receipt of the form. Order [DE-854] at 1. For the foregoing reasons, Carter's letter motion [DE-857], which the court construes as a motion to modify or vacate her sentence without filing a § 2255 motion, is

DENIED. The court's previous order directing Carter to file her § 2255 motion on the appropriate form is RATIFIED.

SO ORDERED.

This 31st day of July 2013.

A handwritten signature in black ink, appearing to read "James C. Fox", is written over a horizontal line.

JAMES C. FOX
SENIOR UNITED STATES DISTRICT JUDGE